

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

CLAUDIA LANIER,

Plaintiff,

vs.

WACHOVIA BANK,

Defendant.

Civil Action No. 2:09-cv-4566

**VERIFIED STATEMENT OF KATHLEEN McLEOD CAMINITI, ESQ.**

I, Kathleen McLeod Caminiti, Esq., verify that the statements made in this Verified Statement, pursuant to 28 U.S.C. § 1746, are true and correct to the best of my knowledge and belief. I understand that false statements made herein are subject to the penalties of perjury and state as follows:

1. I am an attorney and a partner in the law firm of Fisher & Phillips LLP, attorneys for defendant Wachovia Bank ("Wachovia") in this matter. I have been admitted to this Court as attorney pro hac vice in this matter, for which I have primary responsibility. In that capacity, I have personal knowledge of the facts set forth in this Verified Statement, which I make in opposition to plaintiff's Motion to Remand (Docket Entries 6 and 7).

2. Before Wachovia removed this matter from Pennsylvania state court to this Court, plaintiff had never filed in this matter the "Motion to Cease and Desist and Payback" that she attaches as Exhibit A to her Motion to Remand (Docket Entry 6). This

is clear from the Pennsylvania state court docket sheet, a true and correct copy of which is attached hereto as Exhibit A, and which is available on the World Wide Web at [https://fjdefile.phila.gov/dockets/zk\\_fjd\\_public\\_qry\\_03.zp\\_dktrpt\\_frames](https://fjdefile.phila.gov/dockets/zk_fjd_public_qry_03.zp_dktrpt_frames).

3. The state court docket sheet (Exhibit A hereto) also shows that on October 22, 2009, *after* Wachovia removed this matter to this Court, and *after* plaintiff first filed her Motion to Remand here on October 15, 2009 (Docket Entry 6), plaintiff filed in state court what she entitled a "Pre-Trial Motion to Cease and Desist and Payback," a true and correct copy of which is attached hereto as Exhibit B. This filing is not identical to the purported state court Motion that plaintiff attached as Exhibit A to her Motion to Remand.

Pursuant to 28 U.S.C. § 1746, I verify under penalty of perjury that the foregoing is true and correct.

Executed on November 2, 2009.

s/Kathleen McLeod Caminiti, Pro Hac Vice  
KATHLEEN McLEOD CAMINITI, Esq.  
For FISHER & PHILLIPS LLP  
430 Mountain Avenue  
Murray Hill, New Jersey 07974  
Phone: (908) 516-1050  
Fax: (908) 516-1051  
[kcaminiti@laborlawyers.com](mailto:kcaminiti@laborlawyers.com)

# Exhibit A

# Civil Docket Report

## Case Description

**Case ID:** 090804306  
**Case Caption:** LANIER VS WACHOVIA BANK  
**Filing Date:** Thursday , September 03rd, 2009  
**Court:** MAJOR JURY-STANDARD  
**Location:** City Hall  
**Jury:** JURY  
**Case Type:** FRAUD  
**Status:** NOT OF REMOVAL TO US DIST CT

## Related Cases

*No related cases were found.*

## Case Event Schedule

*No case events were found.*

## Case Parties

Seq #	Assoc	Expn Date	Type	Name
1			PRO SE FILER	LANIER MIS, CLAUDIA E
<b>Address:</b>	4517 TOLBUT STREET PHILADELPHIA PA 19136  (215)305-1885		<b>Aliases:</b>	<i>none</i>
2	1		PLAINTIFF	LANIER, CLAUDIA E
<b>Address:</b>	4517 TOLBUT STREET PHILADELPHIA PA 19136		<b>Aliases:</b>	<i>none</i>
3	6		DEFENDANT	WACHOVIA BANK
<b>Address:</b>	123 S. BROAD STREET PHILADELPHIA PA 19109		<b>Aliases:</b>	<i>none</i>

4			TEAM LEADER	ALLEN, JACQUELINE F
<b>Address:</b>	360 CITY HALL BROAD & MARKET STREETS PHILADELPHIA PA 19107  (215)686-7038		<b>Aliases:</b>	<i>none</i>
5			JUDGE	SYLVESTER, ESTHER R
<b>Address:</b>	<i>unavailable</i>		<b>Aliases:</b>	<i>none</i>
6			ATTORNEY FOR DEFENDANT	EWAN, TODD ALAN
<b>Address:</b>	FISHER & PHILLIPS LLP RADNOR FINANCIAL CENTER 201 KING OF PRUSSIA ROAD RADNOR PA 19087 (610)230-2140		<b>Aliases:</b>	<i>none</i>

#### Docket Entries

Filing Date/Time	Docket Type	Filing Party	Disposition Amount	Approval/ Entry Date
03-SEP-2009 02:11 PM	ACTIVE CASE			03-SEP-2009 02:14 PM
<b>Docket Entry:</b>	E-Filing Number: 0909005597			
03-SEP-2009 02:11 PM	COMMENCEMENT CIVIL ACTION JURY	LANIER MIS, CLAUDIA E		03-SEP-2009 02:14 PM
<b>Docket Entry:</b>	<i>none.</i>			
03-SEP-2009 02:11 PM	COMPLAINT FILED NOTICE GIVEN	LANIER MIS, CLAUDIA E		03-SEP-2009 02:14 PM

<b>Docket Entry:</b>	COMPLAINT WITH NOTICE TO DEFEND WITHIN TWENTY (20) DAYS AFTER SERVICE IN ACCORDANCE WITH RULE 1018.1 FILED.			
03-SEP-2009 02:11 PM	SHERIFF'S SURCHARGE 1 DEFT	LANIER MIS, CLAUDIA E		03-SEP-2009 02:14 PM
<b>Docket Entry:</b>	<i>none.</i>			
03-SEP-2009 02:11 PM	JURY TRIAL PERFECTED	LANIER MIS, CLAUDIA E		03-SEP-2009 02:14 PM
<b>Docket Entry:</b>	12 JURORS REQUESTED.			
03-SEP-2009 02:11 PM	WAITING TO LIST CASE MGMT CONF	LANIER MIS, CLAUDIA E		03-SEP-2009 02:14 PM
<b>Docket Entry:</b>	<i>none.</i>			
03-SEP-2009 02:11 PM	MOT-PROCEED IN FORMA PAUPERIS	LANIER MIS, CLAUDIA E		03-SEP-2009 02:14 PM
<b>Docket Entry:</b>	69-09090469 RESPONSE DATE: 09/14/2009 (FILED ON BEHALF OF CLAUDIA E LANIER)			
16-SEP-2009 03:14 PM	MOTION ASSIGNED			16-SEP-2009 03:14 PM
<b>Docket Entry:</b>	69-09090469 MOT-PROCEED IN FORMA PAUPERIS ASSIGNED TO JUDGE: SYLVESTER, ESTHER R. ON DATE: SEPTEMBER 16, 2009			
29-SEP-2009 03:14 PM	ORDER ENTERED/236 NOTICE GIVEN	SYLVESTER, ESTHER R		29-SEP-2009 03:14 PM
	69-09090469 UPON CONSIDERATION OF THE PETITION TO PROCEED IN FORMA PAUPERIS WITH AFFIDAVIT, AND ANY RESPONSE THERETO, IT IS HEREBY ORDERED THAT THE PETITION IS GRANTED. 1. PETITIONER BE PERMITTED TO PROCEED WITHOUT PAYING THE COSTS OF THIS PROCEEDING OR POSTING A BOND. 2. PETITIONER BE PERMITTED TO OBTAIN SERVICE OF THE PAPERS FILED. 3. PETITIONER BE PERMITTED TO PROCEED IN FORMA PAUPERIS AS TO ANY ADDITIONAL COSTS WHICH ACCRUE IN THE			

<b>Docket Entry:</b>	COURSE OF THIS PROCEEDING. 4. IF THERE IS A MONETARY RECOVERY BY JUDGMENT OR SETTLEMENT IN FAVOR OF THE PARTY PERMITTED TO PROCEED INFORMA PAUPERIS, THE EXONERATED FEES AND COSTS SHALL BE TAXED AS COSTS AND PAID TO THE PROTHONOTARY BY THE PARTY PAYING THE MONETARY RECOVERY. 5. PETITIONER HAS A CONTINUING OBLIGATION TO INFORM THE COURT OF ANY IMPROVEMENT IN PARTY'S FINANCIAL CIRCUMSTANCES THAT WILL ENABLE THE PARTY TO PAY COSTS. ...BY THE COURT, JUDGE SYLVESTER, 9-29-09			
29-SEP-2009 04:35 PM	AFFIDAVIT OF SERVICE FILED	LANIER MIS, CLAUDIA E		30-SEP-2009 06:59 AM
<b>Docket Entry:</b>	AFFIDAVIT OF SERVICE OF PLAINTIFF'S COMPLAINT UPON WACHOVIA BANK BY PERSONAL SERVICE ON 09/28/2009 FILED. (FILED ON BEHALF OF CLAUDIA E LANIER)			
06-OCT-2009 01:17 PM	NOT OF REMOVAL TO US DIST CT	EWAN, TODD ALAN		06-OCT-2009 02:05 PM
<b>Docket Entry:</b>	NOTICE OF REMOVAL TO THE U.S. (EASTERN) DISTRICT COURT UNDER 2:09-CV-04566. (FILED ON BEHALF OF WACHOVIA BANK)			
22-OCT-2009 01:43 PM	MOTION TO INTERVENE	LANIER MIS, CLAUDIA E		22-OCT-2009 02:23 PM
<b>Docket Entry:</b>	43-09103243 RESPONSE DATE 11/12/2009. (FILED ON BEHALF OF CLAUDIA E LANIER)			
22-OCT-2009 01:51 PM	MISCELLANEOUS MOTION	LANIER MIS, CLAUDIA E		23-OCT-2009 11:03 AM
<b>Docket Entry:</b>	48-09103348 RESPONSE DATE 11/12/2009. MOTION TO CEASE, DESIST AND PAYBACK. I WANT THIS ILLEGAL GARNISHMENT STOPPED AND TO NEVER RESUME. I ALSO WANT MY MONEY \$15,852.68 TO BE PAID BACK TO ME IN ADDI (FILED ON BEHALF OF CLAUDIA E LANIER)			

# Exhibit B



**FILED**

22 OCT 2009 01:51 pm

**Civil Administration**

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA  
CIVIL ACTION - LAW

CLAUDIA LANIER, Plaintiff, pro se  
4517 Tolbut Street  
Philadelphia, PA 19136  
215-305-1885  
v.

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Case ID No.: 090804306

WACHOVIA BANK, Defendant  
123 S. Broad Street  
Philadelphia, PA 19109

**PRE-TRIAL  
MOTION TO CEASE AND DESIST AND PAYBACK**

Plaintiff Claudia Lanier moves this court for an order requiring Defendant to:

1. Cease and Desist this garnishment, in which there has never been due process.
2. Payback all monies taken from me (at the time of this writing is \$15,852.68) plus 20% in interest.
3. Monies to be paid back within three (3) business days of motion decision date.

Claudia Lanier 10-22-09

Claudia Lanier  
Pro Se  
4517 Tolbut Street  
Philadelphia, PA 19136  
215-305-1885

Case ID: 090804306  
Control No.: 09103348



3. Pursuant to the Pennsylvania Constitution section 8, Plaintiff has the right to be secure in her houses, papers and possession from unreasonable searches and seizures. Plaintiff also has the right that no warrant be issued to seize her property without probable cause unsupported by oath or affirmation subscribed to by the affiant..

4. Pursuant to the Constitution of the united states of America amendment IV stating that:  
No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation. (Emphasis mine).

5. Also pursuant to USC 28

USC 28 § 3104. Garnishment

(a) **In General.**— If the requirements of section 3101 are satisfied, a court may issue a writ of garnishment against property (excluding earnings) in which the debtor has a substantial nonexempt interest and which is in the possession, custody, or control of a person other than the debtor in order to satisfy a claim for a debt. Co-owned property shall be subject to garnishment to the same extent as co-owned property is subject to garnishment under the law of the State in which such property is located. A court may issue simultaneous separate writs of garnishment to several garnishees. A writ of garnishment issued under this subsection shall be continuing and shall terminate only as provided in section 3205 (c)(10).

(b) **Writ.**—

(1) Subsections (b)(2) and (c) of section 3205 shall apply with respect to garnishment under this section, except that for purposes of this section—

(A) earnings of the debtor shall not be subject to garnishment; and

(B) a reference in such subsections to a judgment debtor shall be deemed to be a reference to a debtor.

(2) The United States shall include in its application for a writ of garnishment—

(A) the amount of the claim asserted by the United States for a debt; and

(B) the date the writ is issued.

(c) **Limitation.**— The value of property garnished shall not exceed the amount by which the sum of the amount of the debt claimed by the United States and the amount of interest and costs reasonably likely to be assessed against the debtor by the court exceeds the aggregate value of the nonexempt interest of the debtor in any—

(1) property securing the debt; and

(2) property attached or in receivership, or income sequestered, under this subchapter.

(Emphasis mine)

Please note that the provisions provided for pre-judgment remedy has not been adhered to and that earnings of the "debtor" are excluded from a pre-judgment remedy. Therefore Wachovia has no legal right to garnish my earnings. Also see Brafman v. United States, 384 F.2d 863, In order for a document to be valid it must have the necessary signatures.

One must be given due process prior to the seizure of property, US v Good 510 US 43.

Date: October 22, 2009



Claudia Lanier  
Pro Se  
4517 Tolbut Street  
Philadelphia, PA 19136  
215-305-1885

www.pearsoned.com

Case ID No.: 090804306

## ORDER

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, Defendant

Wachovia is hereby ORDERED as follows:

1. The motion to cease and desist garnishment is granted.
2. The motion to pay bank all monies taken because of this garnishment is also granted and monies to be paid back with 20% interest within three (3) business days of this order being signed.

BY THE COURT:

J.

Case ID: 090804306  
Control No.: 09103348

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA  
CIVIL ACTION - LAW

CLAUDIA LANIER, Plaintiff, pro se  
4517 Tolbut Street  
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Case ID No.: 090804306

WACHOVIA BANK, Defendant  
123 S. Broad Street  
Philadelphia, PA 19109

**CERTIFICATE OF SERVICE**

Plaintiff Claudia Lanier certifies the following:

1. I am a resident of the state of Pennsylvania and am the Plaintiff in this case.
2. On this date I submitted for filing by hand delivery an original of motion to cease, desist and payback, a Memorandum of Law, a Proposed Order and Certificate of Service.

Office of the Prothonotary  
Philadelphia Court of Common Pleas  
Civil Trial Division  
City Hall  
Broad and Market Streets  
Philadelphia, Pennsylvania 19107

3. A true and clear copy of these materials were also sent via Federal Express to

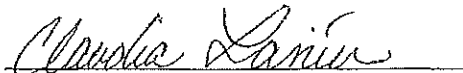
Defendant's Attorney:

Todd Alan Ewan  
Fisher & Phillips LLP  
201 King of Prussia Road

Radnor, PA 19107  
Phone: (610) 230-2140  
E-mail: [tewan@laborlawyers.com](mailto:tewan@laborlawyers.com)

I affirm that all of the information stated is true and correct.

Dated: October 22, 2009

A handwritten signature in cursive script, reading "Claudia Lanier", is written over a horizontal line.

Claudia Lanier  
4517 Tolbut Street  
Philadelphia, PA 19136  
215-305-1885